

**U.S. Rep. Tom Udall (NM-3)**  
**Extension of Remarks**  
**Presidential Authorization of Domestic NSA Spying**  
**12/18/05**

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Mr. Speaker-

I rise today to discuss the recent reports, and admission by President Bush, that he authorized the National Security Agency to spy domestically, and did so without obtaining warrants. Some have noted that it is highly unusual for a President to publicly acknowledge the existence of highly classified intelligence programs. Some believe this is commendable. But Mr. Speaker, his admission was after the fact. After hundreds, possibly thousands, of Americans have had their telephone calls and emails monitored with little to no oversight. After he authorized the NSA, an organization tasked with investigating foreign people and entities, to spy on American citizens and other residents living in this country. And after, Mr. Speaker, he urged the New York Times not to report the existence of this program in the first place. Hardly commendable.

Yet these facts alone, though enough to warrant grave concern, are not the end of the story. Further compounding the issue is that the President did this without even seeking warrants, or legal oversight. I wish I could say I was surprised at this, but I cannot. This Administration has pushed the envelope for power and authority at every opportunity and this is clearly no exception. If truly and absolutely necessary, they could have at the very least obtained warrants from the Foreign Intelligence Surveillance Court. As the New York Times stated today in an editorial, "The law governing the National Security Agency was written after the Vietnam War because the government had made lists of people it considered national security threats and spied on them. All the same empty points about effective intelligence gathering were offered then, just as they are now, and the Congress, the courts and the American people rejected them." In authorizing this program, this Administration has chosen to ignore precedent, wisdom, and possibly even the Constitution.

The Fourth Amendment clearly states "*The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*" I strongly believe that spying on American citizens without first obtaining warrants, or any legal oversight, clearly violates this bedrock principle of our government and our nation as a whole. I also believe that this program-its inception, its uses, its results, its justification for existence-needs to be thoroughly investigated. I have begun circulating a letter asking the House Permanent Select Committee on Intelligence to conduct investigations of this. I hope my letter will not be ignored.

Mr. Speaker, no doubt the Administration and its supporters will attempt to paint those questioning the wisdom of this program's existence as weakening our defenses, and undermining our nation's security and counterterrorism efforts. This is a weak and pathetic justification. There is no question the President must have the best possible intelligence to protect our nation

and its citizens. There is no question the President must conduct programs that are hidden from the public eye in order to gather this intelligence. The question is whether or not these ends can be achieved in accordance with our Constitution, our laws, and in a manner that reflects our values as a nation.

I hope for the sake of the country, that after the Congress investigates this program, it is not shown that the President broke the law. However, we will only know the answer to that question after Congress exercises its proper oversight responsibility. Something it has failed to do for five years. Despite what this Administration would have us believe, securing our nation from all enemies both foreign and domestic can be achieved without violations of our civil liberties.

Thank you. I yield back.